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September 21, 1998

BY CERTIFIED MAIL NO. Z108 437 019

Mr. Mike McAteer
United States Environmental Protection Agency
77 West Jackson Blvd.
Chicago, Illinois 60604

Re: Special Notice of Liability, Sauget, Illinois

Dear Mr. McAteer:

Reference is made to the Special Notice Of Liability (Notice) sent by the United States Environmental Protection Agency (EPA) to my client Rogers Cartage Company concerning Area 1, Sauget, Illinois. As a preliminary matter please be advised that I am the attorney for Rogers Cartage Company as concerns the Sauget matter. I would appreciate it if you would see that all further communications concerning Sauget and the Notice are directed to me at the above address.

As to the contents of the Notice, I am confused as to its scope. In the first instance the Notice does not refer to a specific site within Area 1 in its heading. However, in the body of the first paragraph of the Notice there is a specific reference to Site G in Area 1. Thus, one is led to believe that the Notice is for Site G of Area 1. Unfortunately, the material then appended to the Notice seems to be more general in nature and refers to other sites within Area 1.

In particular the attached form of Administrative Order of Consent (Administrative Order) is surprising because I believe that certain sites within the area that it references have been the subject of specific enforcement actions and, have in fact been remediated in the past. For example, Site I of Area 1 was, I believe, remediated by Cerro Copper Products who then brought a contribution action against Monsanto. That action has been dismissed. Thus, it would appear that at least one site within Area 1 is remediated and should not be included as a part of this Notice.

I would appreciate it if you would clarify for me the specific scope of the Notice so that Rogers Cartage Company (Rogers) can properly respond to it. In the interim, however, and without prejudice to any response that it wishes to make once the intent of the Notice is clarified, Rogers wishes to make the following observations based upon the material sent to it.

Assuming, the notice is directed only to Site G of Area 1, it is clear from the Notice itself that Rogers is not a PRP as to that site. The Administrative Order in paragraphs 3 and 4 does not list Rogers as either a generator or owner / operator with respect to that site. Further there is no basis in objective fact for Rogers to be a PRP with respect to Site G. It has never owned the property and has never been a generator with respect to it. Therefore, by this letter Rogers request that you

remove is from the list of PRP's included in the Notice if the Notice is solely directed at Site G of Area 1 in Sauget, Illinois.

Assuming that the Notice is intended to be somewhat more wide ranging than just Site G, Rogers also believes that it is not a PRP with respect to any of the sites noted in the Administrative Order. Please note that at no point is Rogers ever listed in the Administrative Order as a generator with respect to any of the Area 1 sites. Therefore by the EPA's own records Rogers is not a PRP as to Area 1 on the basis of generation of hazardous wastes.

With respect to Site L of Area 1, the Administrative Order does list Rogers as an owner of that site. The Administrative Order is wrong. Rogers had never owned the whole or any part of the land that is designated as Site L of Area 1 in Sauget. Therefore it cannot be an owner as that term is defined in Section 107 of CERCLA.

With respect to Site H of Area 1, Rogers was a passive owner of some land within that site for a few years in the 1970's. During the period in question it neither generated any waste at the site nor carried on operations of any kind at the site. Its ownership role was totally passive. Further, the time over which it owned any land within Site H falls outside the period of time identified by the EPA as the time of disposal of hazardous waste at Site H of Area 1. Again according to the Notice itself and Section 107 of CERCLA Rogers is not a PRP as respects any Site H within Area 1, Sauget, Illinois.

For the above noted reasons Rogers is clearly not a PRP with respect to any property set forth in the Notice which it received. Therefore, Rogers requests that you take all necessary steps to remove it from the list of PRP's covered by the Notice and to inform Rogers in writing that it has been removed from the list of PRP's in Area 1, Sauget, Illinois. Of course if the EPA has any information which appears to lead to the conclusion that Rogers is PRP with respect to Area 1, I would appreciate it if you would forward the same to me immediately so that I may review it and respond to it. Absent any such information Rogers will not proceed any further because it is not a PRP as to Area 1, Sauget, Illinois.

If you have any questions or need any further information, please do not hesitate to contact me. In the meantime I look forward to receiving confirmation in writing that Rogers has been taken off the PRP list.

Very truly yours,



James R. Latta

✓ cc Thomas J. Martin, U S EPA - By Certified Mail # Z 108 437 020

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U.S. EPA, Region 5
Office of Regional Counsel.